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CHARLES ELMORE

No. 44

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

MOTION BY APPELLANTS TO ADVANCE.

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
G. H. Muckley,
H. H. Larimore,
C. S. Burg,
J. R. Turney,
Robert Thompson,
Solicitors for Appellants.

Samuel W. Moore,
Of Counsel.

No. 642.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929.

THE BEAUMONT, SOUR LAKE & WESTERN RAILWAY COMPANY, ET AL., APPELLANTS,

VS.

THE UNITED STATES OF AMERICA, ET AL., APPELLEES.

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI.

MOTION BY APPELLANTS TO ADVANCE.

Come now the appellants in the above entitled cause and move that the said cause be advanced for an early hearing, and in support of their motion, make the following brief statement of the matters involved and the reasons relied upon for such advancement.

The question involved in the case is the validity of an order entered by the Interstate Commerce Commis-

sion in a proceeding, brought on the Commission's own initiative, and designated as Docket No. 15234, *In the Matter of Divisions of Freight Rates in Western and Mountain-Pacific Territories* (reported in 148 I. C. C. 457, and 156 I. C. C. 94), in which the Commission prescribed the divisions of the revenue from the joint rates upon traffic between points on the lines of certain railroads in Southwestern territory and points on certain railroads in Western Trunk Line territory, as such territories were described by the Commission, and also between points on the said railroads in Southwestern territory passing over one of the said railroads in Western Trunk Line territory in transportation to or from points in certain Eastern territory. Appellants were plaintiffs below, and brought suit under the provisions of the Urgent Deficiencies Act of October 22, 1913, Ch. 32, 38 Stat. 208, 219-220 (U. S. C. tit. 28, secs. 41 (28) 47 and 47-a), to enjoin, set aside, annul and suspend the said order. Plaintiffs alleged that the said order is erroneous, arbitrary, unreasonable, unlawful, unsupported by the findings of fact, unsupported by any evidence in certain material matters, and unsupported by substantial evidence in other material matters, repugnant to the provisions of the Interstate Commerce Act, and particularly of sub-division 6 of Section 15 thereof, and constitutes a denial of due process of law, in violation of the Fifth Amendment to the Constitution of the United States, as fully specified in the plaintiff's amended petition and in the assignment of errors.

The District Court denied all the contentions of the plaintiffs and entered an order or decree dismissing

plaintiffs' petition, from which action plaintiffs have taken this appeal to this court. The case was docketed in this court on February 8th, 1930, and the jurisdictional statement for appellants was filed on or about March 6th, 1930. The transcript of the record will probably be printed by March 22, 1930.

The reasons why the said case should be advanced are the following:

It is provided in the said Urgent Deficiencies Act of October 22, 1913, that the final judgment or decree of a District Court in such cases may be reviewed by the Supreme Court of the United States upon appeal, and that appeals in such cases shall have priority in hearing and determination, over all other causes except criminal causes, in this court.

The said order of the Interstate Commerce Commission became effective, according to its terms, on December 1, 1929. If valid, the order will require the payment of increased divisions in the sum of $3,000,000 or more per annum by the appellants to certain railroad companies in Western Trunk Line territory. Although the District Court granted an order staying, as to appellants, the enforcement and operation of the said order of the Interstate Commerce Commission pending this appeal to this court, it is nevertheless very important that as early a decision as practicable, of the questions involved in the appeal, may be had, in order that it may be known whether the said appellants must suffer the said reduction in their revenues, applying from December 1, 1929.

Furthermore, it is important that the questions presented on this appeal shall be promptly determined, since there are other proceedings, involving divisions of revenue from joint rates, pending before the Commission, which involve the same fundamental principles.

Wherefore, appellants move that the case be set down for argument at as early a date as practicable.

Respectfully submitted,

F. H. Moore,
W. E. Davis,
E. T. Miller,
M. G. Roberts,
J. R. Bell,
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